



City Clerk

CITY OF SAN JOSÉ, CALIFORNIA

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STATE OF CALIFORNIA
COUNTY OF SANTA CLARA
CITY OF SAN JOSÉ

I, Toni J. Taber, City Clerk & Ex-Officio Clerk of the Council of and for the City of San José, in said County of Santa Clara, and State of California, do hereby certify that **Ordinance No. 29678**, the original copy of which is attached hereto, was passed for publication of title on the **12th day of January 2016**, was published in accordance with the provisions of the Charter of the City of San José, and was given final reading and adopted on the **January 26, 2016**, by the following vote:

AYES: CARRASCO, HERRERA, JONES, KALRA, KHAMIS, M. NGUYEN,
T. NGUYEN, OLIVERIO, PERALEZ, ROCHA; LICCARDO.

NOES: NONE.

ABSENT: NONE.

ABSTAINED: NONE.

Said ordinance is effective as of **February 26, 2016**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San José, this **1st day of February 2016**.

(SEAL)

TONI J. TABER, CMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

ORDINANCE NO. 29678

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 20.30.100 OF CHAPTER 20.30 AND SECTIONS 20.80.810 AND 20.80.820 OF CHAPTER 20.80 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO EXPAND THE NUMBER OF HOURS AND RANGE OF SITES WITH PUBLIC/QUASI-PUBLIC USES ON WHICH OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES MAY BE ALLOWED AS A PERMITTED USE (WITHOUT AN ADMINISTRATIVE PERMIT); AND TO REDUCE THE RESTRICTIONS ON OUTDOOR VENDING OF FRESH FRUITS AND VEGETABLES AS A PERMITTED USE (WITHOUT AN ADMINISTRATIVE PERMIT); AND TO MAKE OTHER TECHNICAL, FORMATTING OR OTHER NON-SUBSTANTIVE CHANGES WITHIN TITLE 20

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 20.30.100 of Chapter 20.30 of Title 20 of the San José Municipal Code shall be amended to read as follows:

20.30.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-50.
- B. "Conditional" uses are indicated by a "C" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.

- D. Land uses not permitted are indicated by a "-" on Table 20-50. Land uses not listed on Table 20-50 are not permitted.
- E. "Restricted" land uses are indicated by an "R" on Table 20-50. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective zoning code verification certificate as set forth in Chapter 20.100.
- F. When the right column of Table 20-50 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San José Municipal Code.

**Table 20-50
Residential Districts
Land Use Regulations**

Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Residential Uses					
One-family Dwelling	P	P	P	C	Note 1, Section 20.30.110
Secondary Dwelling	P	-	-	-	Section 20.30.150
Two-family Dwelling	-	P	P	-	Note 2, Section 20.30.110
Multiple Dwelling	-	-	P	-	
Guesthouse	-	-	C	-	Section 20.30.120
Mobilehome Parks	-	-	-	P	
Travel Trailer Parks	-	-	-	C	
Residential Care Facility, six or fewer persons	P	P	P	P	
Residential Care Facility, seven or more persons	-	-	C	C	
Residential Service Facility, six or fewer	P	P	P	P	

persons					
Residential Service Facility, seven or more persons	-	-	C	C	
Servants quarters attached to a One-family Dwelling or attached to a garage Structure	P	-	-	-	Note 3
Sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	
Single Room Occupancy (SRO) Living Unit Facility	-	-	C	-	Part 15, Chapter 20.80
Residential Accessory Uses and Improvements					
Accessory Buildings and Structures	P	P	P	P	Note 4, Section 20.80.200
Home Occupations	P	P	P	P	Part 9, Chapter 20.80
Entertainment and Recreation Related					
Equestrian and riding club	C	-	-	-	
Golf course	C	C	C	-	Note 5
Private club or lodge	-	-	C	-	
Swim and tennis club	C	C	C	C	
Education and Training					
Child Day Care Center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
School - elementary and secondary (Public)	P	P	P	-	
School - elementary and secondary (Private)	C	C	C	-	
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Health and Veterinary Services					

Emergency ambulance service	C	C	C	C	
General Services					
Certified Farmers' Market	S	S	S	S	Part 3.5, Chapter 20.80; Note 7
Certified Farmers' Market - small	P	P	P	P	Part 3.5, Chapter 20.80; Note 7
Neighborhood Agriculture	P	P	P	P	Part 9, Chapter 20.80
Outdoor Vending - fresh fruits and vegetables	P	P	P	P	Part 10, Chapter 20.80; Notes 7 and 8
Bed and Breakfast Inn	C	C	C	-	
Transportation and Utilities					
Community television antenna systems	C	C	C	C	
Off-site, Alternating Use and Alternative Use Parking Arrangements	S	S	S	S	Section 20.90.200
Parking Establishment, Off-street	C	C	C	C	Section 20.90.150
Utility Facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Wireless Communication Antenna	C	C	C	C	Note 9, Sections 20.30.130, 20.30.140, 20.100.1300 and 20.80.1915
Wireless Communication Antenna, Slimline Monopole	S	S	S	S	Note 9, Sections 20.30.130, 20.30.140, 20.80.1900 and 20.80.1915

Wireless Communication Antenna, Building mounted	P	P	P	P	Note 9, Sections 20.30.130, 20.30.140, 20.80.1910 and 20.80.1915
Electrical Power Generation					
Stand-by/Backup					
Facilities that do not exceed noise or air standards	S	S	S	S	Note 6
Facilities that do exceed noise or air standards	-	-	-	-	
Solar Photovoltaic Power System	P	P	P	P	Sections 20.100.610 C.7. and 20.100.1030 A.6.
Historic Reuse					
Historic Landmark Structure reuse	C	C	C	C	Part 8.5, Chapter 20.80

Notes:

1. Only one one-family dwelling unit per lot in the R-1, R-2, R-M and R-MH districts.
2. Only one primary dwelling structure per lot in the R-2 district.
3. Only permitted in the R-1-1 estate residential district.
4. No lot may be used solely for an accessory structure or building.
5. No driving ranges or miniature golf facilities.
6. Stand-by or backup generators that would not otherwise require some permit from the city (including but not limited to building, electrical, or mechanical), and do meet the applicable noise and air standards are not subject to the special use permit requirement.
7. Allowed on school sites, library sites, community center sites, church/religious assembly sites, and other publicly accessible sites that contain government operations including but not limited to United States Post Offices or State of California Department of Motor Vehicles offices.
8. The activity must conform with the location and operational requirements in Section 20.80.820 of Part 10, Chapter 20.80. Allowed for up eight hours per day for each Vending Facility, but not to exceed eight hours per day per lot.
9. Certain modifications of existing wireless facilities may be permitted with an administrative permit in accordance with Section 20.80.1915 of Chapter 20.80.

SECTION 2. Section 20.80.810 of Chapter 20.80 of Title 20 of the San José Municipal Code shall be amended to read as follows:

20.80.810 Administrative Permit Required

- A. No person shall place or operate or allow or suffer the placement or operation of any stationary Vending Facility which serves members of the public outdoors on any privately owned parcel or lot except in compliance

with an administrative permit issued pursuant to this Title. The application for such administrative permit may be filed by the operator of the Vending Facility and shall be countersigned by the owner of the subject lot or parcel, or by the authorized agent of the owner, pursuant to the requirements of Chapter 20.100.

- B. A stationary Vending Facility is a Vending Facility which remains or operates on any single parcel or lot for more than a total of two (2) hours in any twenty-four (24) hour period.
- C. An administrative permit is required for each individual stationary Vending Facility.

SECTION 3. Section 20.80.820 of Chapter 20.80 of Title 20 of the San José Municipal Code shall be amended to read as follows:

20.80.820 Exception - Administrative Permit

- A. Nothing in this Part shall regulate or prohibit the following uses:
 - 1. The seasonal sale of Halloween pumpkins and Christmas trees and associated greenery pursuant to this Title.
 - 2. The peddling of any product from an approved location within the sidewalk portion of a public street pursuant to Chapter 6.54 of Title 6.
 - 3. The placement or maintenance of a newsrack within the public right-of-way pursuant to Chapter 13.18 of Title 13.

4. The vending of beverages, goods, wares, merchandise or services for the use of an on-site business when covered by other provisions in this Title.
- B. Notwithstanding the provisions of this Part, no administrative permit shall be required for the placement or operation of a Vending Facility which solely involves the vending of whole, uncut, fresh fruits and vegetables and that meets and remains in full compliance with all of the following location and operational requirements:
1. The vendor shall attend the Vending Facility at all times.
 2. The Vending Facility shall operate only on a site with an existing Fixed-base Host in operation on the site.
 3. All operations shall fully comply with all federal, state and local laws, regulations and guidelines including without limitation those applicable to the vending of fresh fruits and vegetables, including without limitation the California Health and Safety Code, the California Food and Agricultural Code, and all regulations and guidelines promulgated by the State of California and the County of Santa Clara thereunder, as the same may be amended from time to time.
 4. All activities, and the duration of those activities, shall first have been approved and authorized in writing by the owner of the real property on which those activities are planned to occur. The vendor shall have this written authorization available on-site and shall present it to the City upon the City's request.

5. The vendor shall completely remove all equipment, merchandise and other materials, including, without limitation, waste materials, from the site upon the conclusion of the vending activities, excepting such interior storage of equipment, merchandise or materials as may be allowed on the site with the permission of the owner or operator of the site.
6. The hours of operation of a Vending Facility shall be limited to the hours of operation of the fixed-base businesses on the Fixed-base Host site; however, the Vending Facility shall not operate, including any setup or breakdown activities, between the hours of 9:00 p.m. and 7:00 a.m. During hours in which the Fixed-Base host businesses are closed, the Vending Facility shall be removed from the parcel or lot on which it operates, or shall be stored indoors.
7. The Vending Facility shall be placed or operated only on paved surfaces and not on landscaped areas, nor shall the Vending Facility adversely impact any landscaping or landscaped areas.
8. The vendor shall not offer for sale or otherwise distribute any products other than whole, uncut, fresh fruit and vegetables.
9. Each vendor shall not use amplified sound for any purpose.
10. The Vending Facility or activities shall not obstruct the safe flow of vehicular or pedestrian traffic on or around the site.
11. The Vending Facility shall not occupy or obstruct more than two (2) parking spaces required by this Title for the operation of any other concurrent use.

12. The maximum dimensions of the Vending Facility shall be as follows:
 - a. The maximum height of any portion of each Vending Facility, including any folding or collapsible appendage, shall not exceed ten feet.
 - b. The maximum width of each Vending Facility or cart, including any folding or collapsible appendage, shall not exceed ten (10) feet.
 - c. The maximum length of each Vending Facility or cart, including any folding or collapsible appendage, shall not exceed twenty-four (24) feet.
13. The Vending Facility shall not be placed on or operate within the boundaries of a hypothetical triangular area described by the point of intersection of the curb-line extensions of perpendicular or nearly perpendicular streets, and a line joining two (2) points thirty (30) feet from that point of intersection, measured along those curb-lines.
14. The Vending Facility shall not be placed or operate less than one hundred (100) feet from a freeway on or off ramp.
15. The Vending Facility shall not be placed or operate less than twenty (20) feet from a driveway curb cut.
16. The Vending Facility shall not be placed or operate within fifty (50) feet of an exclusively residentially used lot as measured from

nearest point of Vending Facility to nearest point of the exclusively residentially used lot.

17. No Vending Facility shall be placed within or operate from a structure or stand which is attached to or bears directly upon or is supported by the surface of the site. Vending Facilities shall operate exclusively from vehicles or carts or other conveyances which are fully mobile and have operational wheels in place at all times. Vending Facilities shall not connect to temporary or permanent on-site water, gas, electricity, telephone or cable sources.
18. Vending Facilities shall not be located less than fifteen (15) feet from a parcel or lot line or a public right-of-way.
19. The vendor shall not place or utilize displays of fruits or vegetables that are detached from the Vending Facility or visible off- site.
20. All signs used in conjunction with any Vending Facility shall comply with the requirements of Title 23 of this Code and with the following requirements:
 - a. Free-standing signs shall not be allowed. All signs shall be mounted or attached to the exterior surfaces of the Vending Facility and shall not extend beyond the top, bottom, or side lines of the exterior surface to which it is mounted or attached. The dimensions of mounted or attached signs shall be included in measuring and calculating the maximum height, width, and length of a Vending Facility under Section 20.80.870.

- b. No sign shall revolve, rotate, move or create the illusion of movement, rotation, or revolution, or have any visible moving, revolving, or rotating surface parts.
 - c. No sign shall be illuminated, directly or indirectly; but this restriction does not preclude the incidental illumination of such signs by service lighting needed in the conduct of nighttime operations.
 - d. No signs shall emit or broadcast any sound, outcry, or noise.
21. The vendor shall maintain the Vending Facility and the area around the Vending Facility in a clean and orderly manner that does not create a public or private nuisance. For purposes of this Part, a "nuisance" shall mean any act or omission which obstructs or causes substantial inconvenience or damage to the public or any member thereof, in the course of, or by the manner of, the exercise of rights created by this Title.
22. Each Vending Facility shall display in a manner legible and visible to its clientele:
- a. The name and phone number of the vendor operating the Vending Facility;
 - b. The number of the City business license issued to the Vending Facility; and
 - c. The property owner's name and phone number.

23. Each vendor shall have secured with the property owner of the site on which the vendor plans to operate, and prior to the commencement of any operation of the vendor, provision for all of the following services in a manner that comports with state and local laws and regulations, as the same may be amended from time to time:
- a. Refuse disposal and sufficient trash and recycling receptacles within the area of the vending;
 - b. Litter removal within three hundred (300) feet of the boundaries of the Vending Facility; and
 - c. Access to adequate sanitary facilities, including restrooms and/or portable sinks and toilets.

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PASSED FOR PUBLICATION of title this 12th day of January, 2016, by the following vote:

AYES: CARRASCO, HERRERA, JONES, KALRA, KHAMIS,
M. NGUYEN, T. NGUYEN, OLIVERIO, PERALEZ,
ROCHA; LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



SAM LICCARDO
Mayor

ATTEST:



TONI J. TABER, CMC
City Clerk